

Date: August 13, 2009
To: Senate Committee on Small Business, Emergency Preparedness, Technical Colleges,
and Consumer Protection
From: Jennifer Kammerud, Legislative Liaison JK
Subject: **2009 Senate Bill 226**

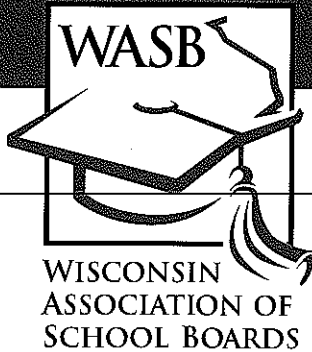
The Department of Public Instruction supports an amendment to SB 226 to reflect the changes made to the Assembly companion bill, AB 316. The changes in the Assembly bill, as seen in Assembly Amendment 1, require the department to promulgate rules that identify the criteria to be used in issuing pandemic-related waivers for required hours of instruction. It is our understanding that this same amendment to SB 226 will be brought forward with Senator Jauch and Representative Ballweg's support.

The amendment provides the department with a chance to proactively address a very serious potential pandemic with clear guidance for school districts. It preserves the flexibility for local school districts contained in the waiver process and the department's authority to set statewide standards regarding the amount of instruction provided to students in our public schools.

The committee should also be aware that in preparation for the upcoming school year the department, per our conversations with Senator Jauch and Representative Ballweg, will be sending a letter to all school district administrators addressing the following:

- Guidance for steps school districts should take in the event of a pandemic related closure.
- Criteria the department will use to establish consistency in determining if required hours can be waived.
- Education of children in the event of lengthy closures.
- Processes for waivers related to hours of instructions should there be an influx of a large number of school closures.

Please feel free to contact me should have any questions. I can be reached at (608) 266-7073 or at jennifer.kammerud@dpi.wi.gov.



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JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Sen. Robert Wirsch, Chair, and Members of the
Senate Committee on Small Business, Emergency Preparedness, Technical
Colleges, and Consumer Protection
FROM: Sheri Krause, Government Relations Specialist
DATE: Aug. 13, 2009
RE: Senate Bill 226, related to emergency management

The Wisconsin Association of School Boards (WASB) supports Senate Bill (SB) 226 and the amendment proposed to address the minimum number of hours of direct pupil instruction required under state statute in the event of an emergency.

The WASB supports the provisions of SB 226 which would amend the definition of school day as defined under § 115.01(10) to include days on which school is closed by order of the state department of health services or the school district administrator because of a threat to the health or safety of pupils or school personnel. By amending this definition, school districts will be able to count those specified days toward the statutory 180-day requirement.

However, SB 226 does not address the related hours of direct pupil instruction as required in § 121.02(1)(f)(2):

“Annually, schedule at least 437 hours of direct pupil instruction in kindergarten, at least 1,050 hours of direct pupil instruction in grades 1 to 6 and at least 1,137 hours of direct pupil instruction in grades 7 to 12...”

Thus, the bill as currently written would provide minimal flexibility to school districts in the event of a serious emergency.

In order to provide greater flexibility, an amendment has been proposed to require the Department of Public Instruction to promulgate rules establishing criteria for waiving the requirement to schedule at least the number of hours of direct pupil instruction specified by statute if school is closed by order of the local health officer or the Department of Health Services, or is closed by order of the school district administrator because of a threat to health or safety.

The WASB thanks Sen. Bob Jauch, chair of the Legislative Council Study Committee on Emergency Management and Continuity of Government, and Rep. Joan Ballweg, vice-chair of the committee, for their support in addressing the minimum number of hours of instruction. We ask for your support as well. Thank you.

Written Testimony of
Brian D. Kuhn
Before the Senate Committee on Small Business, Emergency Preparedness,
Technical Colleges and Consumer Protection
August 12, 2009

Chairman Wirch, and Committee members, thank you for this opportunity to provide testimony to you today on SB 226. I am Brian Kuhn, Director of the Plant Industry Bureau at the Department of Agriculture, Trade and Consumer Protection. I am here to provide testimony specifically related to the portions of SB 226 that cover the Plant Pest Penalty Provisions (Sections 34 and 35) and the Interstate Pest Control Compact (Section 350). The rate of arrival of new invasive plant pests has been consistently increasing for some time and these portions of the bill will help us address pest emergencies.

Plant Pest Penalty Provisions

The proposed language increases penalties and creates a civil forfeiture option for plant pest violations. Currently, we only have authority to assess criminal penalties with a maximum \$200 fine. Because of our limited penalty authority and the fact that we only have a criminal option, it is only very infrequently that we refer a plant pest violation for prosecution. Consequently, the penalties are not an effective deterrent to keep people and businesses from violating plant pest laws. We believe allowing civil forfeitures and increasing the maximum fines will help deter violations. We anticipate that businesses will support the addition of civil forfeitures as a penalty option. Any forfeitures collected under this provision would be deposited in the School Fund.

Interstate Pest Control Compact (IPCC)

Membership in the compact makes Wisconsin eligible for grant funding to address pest emergencies. The '65-'66 legislative session ratified the IPCC. However, that ratification was contingent on the adjoining states of Iowa, Michigan, Illinois and Minnesota joining first. All states except Iowa joined the compact by 1969. The proposed language removes the requirement that Iowa join the compact before Wisconsin's ratification of the compact (and membership) takes effect. Analysis of grants awarded by the IPCC to other states indicates that just one grant awarded to Wisconsin would likely exceed our lifetime membership fee.

That concludes my testimony and again thank you for including these important items in this bill to help us defend Wisconsin's agricultural and natural resources.

Testimony of
Robert G. Ehlenfeldt, DVM
Pertaining to SB 226

Senate Committee on Small Business, Emergency Preparedness, Technical Colleges and Consumer Protection

Thank you, Chairperson Wirch and committee members for the opportunity to testify in support of SB 226. I am Dr. Robert Ehlenfeldt, state veterinarian, with the division of animal health at DATCP.

I wish to specifically address and offer the department's support of a very small, but important portion of this bill that pertains to purposed changes to Chapter 95.50, Disposition of Carcasses that we commonly refer to as the dead animal law.

This bill proposes changes that will permit us to clearly offer disposal methods beyond burn, bury or render options. Things such as alkaline digestion that was not even available until about 2000 as well as time tested methods such as composting which is not only more environmental friendly than burning, burying or land filling but has been proven safe for most of the pathogens we are concerned with.

The bill provides a clear definition of carcasses as the dead body or any part of the dead body of livestock or domestic animals. The part of the dead body is especially important when dealing with prion diseases or Transmissible Spongiform Encephalopathies like CWD and BSE where the primary body part of concern from an infection standpoint is the brain and spinal cord.

The rule maintains the requirement that carcasses be disposed of within 24 hours in warm weather months and 48 hours in cooler months.

It eliminates specific disease references and disposal methods that were a bit archaic and grants authority to the department to address specific infectious of contagious disease issues by rule or order.

**REMARKS OF SENATOR BOB JAUCH, CHAIR,
SPECIAL COMMITTEE ON EMERGENCY MANAGEMENT
AND CONTINUITY OF GOVERNMENT**

***To The Committee on Small Business,
Emergency Preparedness, Technical College and Consumer Protection***

August 13, 2009

Good afternoon Chair Wirch and members of the committee. Thank you for the opportunity to submit testimony to you today. During the last legislative interim period and continuing on into this year, I had the privilege of serving as chair of Legislative Council's Special Committee on Emergency Management and Continuity of Government. In addition to the four legislators who served on the committee, the committee included representatives of state, local, and private sector emergency response entities, fire departments, law enforcement, hospitals, and emergency medicine. Representative Ballweg served as Vice-Chair of the committee and her representative will also present testimony on the proposals from the Legislative Study Committee to you today.

You have before you today three bills and one joint resolution developed through the committee process: SB 226, SB 227, SB 229 and SJR 39. Each of these legislative proposals was approved unanimously by the members of the Legislative Study Committee. Many of the proposals recommended by the committee are proposals that we hope we never have to put to use, including those that deal with legislative continuity in times of disaster. However, one thing that we learned from the recent H1N1 flu outbreak is that advance preparation can mitigate the effects of a disaster and that it is therefore imperative that we be prepared to address worst case scenarios. Both Pam Shannon and Dick Sweet from Legislative Council are here today to assist in answering your questions about the proposals as necessary.

The drafts before you today do the following:

- SB 226 is the recodification of chapter 166 of the Wisconsin Statutes, which relates to emergency management. The bill moves the provisions into a new chapter of the statutes, reorganizes the chapter, and modernizes the language. Most of the modifications are technical in nature and represent important improvements to the state's system of emergency response. As I mentioned, these provisions were supported by all members of the committee, and received support from the Legislative Council Committee. Department officials are either submitting written testimony or they are here in person to answer any questions the committee may have regarding the recodification. The bill also updates the current statutes on liability for health care providers who volunteer during emergencies, by including health care providers who are not currently covered and by including certain volunteers who are credentialed in other states.
- SB 227 provides for legislative continuity during times of disaster by requiring legislators to designate emergency interim successors, allowing a house of the Legislature and its committees to conduct a virtual meeting if certain conditions are met during a time of disaster, and allowing the Legislature to provide a process for designating an emergency temporary seat of government. In addition, SJR 39 recommended by the committee amends the Wisconsin Constitution, which currently requires the Legislature to provide for succession and continuity in periods of emergency resulting from enemy attacks; the draft requires the Legislature to allow for succession and continuity in other emergency situations. Currently, the legislature cannot meet and conduct business anywhere other than the Capitol. Having a plan that provides continuity during times of disaster is a necessity. State agencies and the Governor have plans to meet and operate outside of the Capitol. It is important to recognize that there are certain situations that could result in a non-functioning legislature. The committee made a series of recommendations and we

realize some of the provisions, particularly the line of succession, will generate discussion and it is important that the legislature contemplate the options. I hope that the legislature will move at least some of this bill forward. Some aspects of the bill everyone should agree on. At the very least, it is important that we provide the legislature with the ability to meet and conduct business outside of the Capitol.

- SB 229 would create statutes that govern regional teams established to respond to structural collapse emergencies, similar to the regional teams that we currently use to address hazardous materials emergencies. The bill was brought forth by fire chiefs throughout the state. This bill will allow for a trained force that can respond and be reimbursed for these rare emergency incidences. The committee grappled with the funding aspect of this bill and we recognized that this poses a challenge in the current fiscal environment. This proposal will put the structure for the collapse teams in place and leaves the funding question open.

After the hearing on the Assembly versions of these proposals, the Assembly committee developed amendments to the bills addressing the chapter 166 recodification, structural collapse teams, and the constitutional amendment. These amendments were introduced by the Assembly committee, and Representative Ballweg and I ask that this committee introduce these amendments to the Senate versions of the bills.

- The amendment to SB 226 will require the Department of Public Instruction to promulgate rules establishing criteria for waiving the requirement to schedule at least the number of hours of direct pupil instruction specified by statute if school is closed by order of the local health officer or DHS, or is closed by order of the school district administrator because of a threat to health or

safety. This amendment also restores veterinarians under the category of "health care provider," and adds veterinary technicians to that category.

- The amendment to SB 229 the structural collapse team must make a good faith effort to identify the person responsible for the collapse and provide that information to the division. The division collects money from the responsible person and reimburses the team for costs incurred in responding to the incident. As under the bill, reimbursement is limited to the amount of money collected by the division from a responsible person.
- The amendment to SJR 39 delineates the nature of emergencies for which the Legislature must ensure continuity of governmental operations by stating that the emergencies must result from "a severe or prolonged, natural or human-caused, occurrence that threatens life, health, or the security of the state."

TESTIMONY ON SB 226, 227, 229 and SJR 39

My name is Randi Wind Milsap and I am the Legal Counsel for the WI Department of Military Affairs and its Division of Emergency Management. The Department and its Division wholeheartedly support Senate Bills 226, 227, 229 and Senate Joint Resolution 39.

These bills were prepared for the Joint Legislative Council's Special Committee on Emergency Management and Continuity of Government. I served on the drafting Sub-Committee of this Special Committee and assisted in the drafting of both SB 226 and 229. The Department and the Division wish to thank the Joint Legislative Council and its Special Committee for the tremendous work and effort put into these bills.

Senate Bill 226 is a recodification and renumbering of the current Chapter 166 (Emergency Management). This bill reflects and updates current practice in the emergency management community in a logical and orderly manner as well as modernizing language. SB 226 renumbers the current chapter to Chapter 323, creates a definition of the term "disaster" based on an all-hazards approach, encourages multi-jurisdictional collaboration between public works agencies at the city, village, town, county and tribal levels, and provides that the Governor may designate DOA as the lead

agency in the event of an emergency related to computer or telecommunications systems. The bill also modifies current law relating to liability and credentialing of emergency volunteer health care practitioners by moving the related statutes into a newly created Chapter 257 and expanding recognition of credentials to additional providers as well as persons duly credentialed in other states. This bill comes as the logical next step to the recent recodification of Chapter 21, Military Affairs as enacted under 2007 WI ACT 200.

Senate Bill 229 establishes new statutory authority for the Division of Emergency Management to enter into contracts with no more than 4 regional structural collapse teams. This bill mirrors statutory language currently in place for the regional hazardous materials emergency response teams under s. 166.215, Wis. Stats. Structural collapse teams respond to different types of catastrophic events and disasters that require different training and equipment than the regional hazardous materials teams. Under this bill, structural collapse team members will be required to meet specific training competencies and a team member acting under the contract will be considered a state employee for worker's compensation purposes. There is no fiscal note or appropriation created under this legislation. Ultimately, this bill will provide additional catastrophic response capabilities to the citizens of Wisconsin.

I appreciate the opportunity to testify in support of these important bills and welcome any specific questions the Committee members may have on this legislation.